IN THE HIGH COURT OF JUDICATURE AT BOMBAY
A.S.
Writ Petition No.8090 of 2005

Shri Dattatray K Palve ....Petitioner
vs
Shri Shyam G Agarwal....Respondent

Mr Rajesh More for petitioner

Mr.A.P.Vanarse for respondent

CORAM: S.U.KAMDAR J.

Dated 30.ll.2005

P.C:

l. Rule, returnable forthwith.

2. By the impugned order the trial court has rejected the application for amendment of the written statement. By the amendment the original defendant is seeking to raise one additional ground to resist his eviction under section l6(l) of the Maharashtra Rent Control Act. The ground on which the said application has been rejected is on merits by holding that no such ground is made out. In my opinion it is well settled that at the stage of granting or refusing to grant amendment the court is not required to go into the merits of the averment sought to be added and the only ground which is necessary to be looked into is whether it changes the entire cause of action or changes the case already pleaded in the proceedings. Now it

has been well settled that the amendment should be liberally granted under Order 6 rule l7 of the CPC. In that light of the matter the impugned order passed by the Adhoc Additional District Judge is unsustainable in law. The order dated l9.l0.2005 is accordingly quashed and set aside. The amendment application being Exh l35 is granted. The petitioner is directed to carry out the amendment within two weeks from today. The trial court shall conduct the proceedings from the stage of amendment of the written statement granted by this court.

. Petition is disposed of accordingly with no order as to costs.